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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,696	02/15/2002	Olivier Brique	16673-6	4633
7590	11/30/2004		EXAMINER	
Clifford W Browning Woodard Emhardt Naughton Moriarty & McNett Bank One Center Tower 111 Monument Circle Suite 3700 Indianapolis, IN 46204-5137			ALAM, SHAHID AL	
			ART UNIT	PAPER NUMBER
			2162	
			DATE MAILED: 11/30/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/049,696	BRIQUE ET AL.	
	Examiner Shahid Al Alam	Art Unit 2162	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 July 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 14-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 14-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments filed 19 July 2004 have been fully considered but they are not persuasive for the following reasons.

In response to last office action, Applicants' canceled all of the original claims and submitted with a new set of claims having similar limitation in the claim.

Applicants' argues that the Pirovano document does not disclose the conditional updating of databases from a managing center.

The Yamagishi document does not disclose the message transmission without receivers' address as well as the conditional updating of the databases.

The combination of Pirovano and Yamagishi documents do not overcome the solution as disclosed by the present invention.

Examiner respectfully disagrees the entire allegation as argued. Examiner, in his previous office action, gave detail explanation of claimed limitation and pointed out exact locations in the cited prior art.

Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification.

During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 162 USPQ 541,550-51 (CCPA 1969).

In response to applicant's arguments against the references individually (the Pirovano document does not disclose the conditional updating of databases from a managing center), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The conditional updating of Yamagishi reference (Figure 11, column 15, line 19 – column 18, line 26) clearly teaches applicants' claimed limitation the conditional updating of the databases.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the message transmission without receivers' address) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument (the combination of Pirovano and Yamagishi documents do not overcome the solution as disclosed by the present invention) that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5

USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Yamagishi with Pirovano to enable quick and efficient distribution of data.

In view of the above, the examiner contends that all limitations as recited in the claims have been addressed in this Action.

For the above reasons, Examiner believed that rejection of the last Office action was proper.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 14 – 26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

#### **MPEP 2106 IV.B.2.(b)**

A claim that requires one or more acts to be performed defines a process. However, not all processes are statutory under 35 U.S.C. 101. Schrader, 22 F.3d at 296, 30 USPQ2d at 1460. **To be statutory, a claimed computer-related process must either:** (A) result in a physical transformation outside the computer for which a practical application in the technological arts is either disclosed in the specification or would have been known to a skilled artisan, or (B) be limited to a practical application within the technological arts.

#### **MPEP 2106.II.A**

A process that consists solely of the manipulation of an abstract idea is not concrete or tangible. See *In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994).

Art Unit: 2162

Claims 14 – 26, in view of the above cited MPEP sections, are not statutory because they **merely recite a number of computing steps** without producing any tangible result and/or being limited to a practical application within the technological arts. The use of a computer has not been indicated.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 14 –26 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0491069 A1 issued to Tullio Pirovano et al. (“Pirovano”) and in view of Yasuaki Yamagishi (“Yamagishi”).

With respect to claim 14, Pirovano teaches transmission process of messages of updating database between a managing centre and a plurality of users distributed databases, characterized in that said messages comprise controls including queries for searching a content of the users databases for predetermined data, said messages condition updating of each of the users databases according to criteria related to said data either present or not in the content of the said database (see abstract and page 2, lines 47 – 54). Pirovano teaches Broadcaster (2) and Broadcast Transmission unit (3) which represents managing center where updating of database take place (see Figure 1). Pirovano does not explicitly teach updating database as claimed.

Yamagishi teaches a server structures at least update report data and transmits the update report data over a unidirectional broadcasting network enabling broadcast and contents of the database are updated with the distributed data (see abstract, column 1, lines 52 – 62 and column 6, lines 59 – 67).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine Yamagishi with Pirovano to enable quick and efficient distribution of data (column 1, lines 49 – 50; Yamagishi).

As to claim 15, the connection between the managing centre and the databases is mainly unidirectional (page 2, lines 1 – 2).

As to claim 16, these databases are integrated in Pay-TV reception subscriber's units and that the useful data comprise the reception rights of a subscriber (page 2, lines 29 – 39; Pirovano and column 7, lines 1 – 11; Yamagishi).

As to claim 17, these updating messages comprise a set of control-blocks comprising data and controls, and which consists in carrying out comparison operations between the data and the contents of the database (page 6, line 34 – 39) and determine an action which consists, either to update the database, carry out the subsequent control block, or to jump to another control block, or to terminate the processing of the message (page 5, lines 4 – 9).

As to claim 18, the database is divided or is of the relational type RDB (Yamagishi teaches database and distribution of data (column 1, lines 52 – 62 and column 6, lines 59 – 67).

Claims 19 – 23 are essentially the same as claims 14 – 18 except that it set forth the claimed invention as a system rather than a process and rejected for the same reasons as applied hereinabove.

Claims 24 – 26 are essentially the same as claims 14 – 18 except that it set forth the claimed invention as an improved language interpreter rather than a process and rejected for the same reasons as applied hereinabove.

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact Information***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahid Al Alam whose telephone number is (571) 272-4030. The examiner can normally be reached on Monday-Thursday 8:00 A.M.- 4:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Shahid Al Alam  
Primary Examiner  
Art Unit 2162

24 November 2004